

REMARKS

Claims 1-33 remain pending in this Application. In the Office Action dated July 23, 2004, the Examiner: (1) rejected claims 1-33 under the doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of Wollrath et al. (U.S. Patent No. 6,654,793) in view of Hill et al. (U.S. Patent No. 5,511,197); (2) rejected claims 1, 4, 11, 14, 21 and 24 under 35 U.S.C. § 103(a) as being unpatentable over Hill et al. in view of Lundin et al. (U.S. Patent No. 5,339,430); (3) rejected claims 31-33 under 35 U.S.C. § 103(a) as being unpatentable over Betz, ("Interoperable Objects: Laying the Foundation for Distributed-Object Computing" *Dr. Dobb's Journal*, 19(11), p. 18) in view of Hill et al. and Lundin et al.; (4) rejected claims 3, 7-10, 13, 17-20, 23 and 27-30 under 35 U.S.C. § 103(a) as being unpatentable over Hill et al. in view of Lundin et al. and further in view of Birrell et al. ("Network Objects," *Operating Systems Review*, 27(5), pp. 217-230, December 1993); and (5) rejected claims 2, 5, 6, 12, 15, 16, 22, 25 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Hill et al. in view of Lundin et al. and further in view of Mitchell et al. ("An Overview of the Spring System," February 1994).

Applicants respectfully traverse each of these rejections. The rejections are addressed in turn below.

Information Disclosure Statements

As an initial matter, Applicants note that Applicants have not received an initialed copy of the PTO-1449 forms that accompanied the Information Disclosure Statements (IDSs) filed on October 16, 2000; December 19, 2001; June 21, 2002; October 29,

2002; April 4, 2003; July 2, 2003; and September 17, 2003. In addition, the copy of the PTO-1449 form that accompanied the IDS filed January 18, 2001, was not fully initialed. Specifically, the listing of WO93/25962A1 was not initialed. Accordingly, Applicants request that the Examiner provide initialed copies of the PTO-1449 forms for these IDSs. For the Examiner's convenience, Applicants have enclosed duplicate copies of the above-identified IDSs, their accompanying PTO-1449 forms, and the return postcards indicating receipt of these papers by the Office.

Double Patenting

Claims 1-33 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of Wollrath et al. (U.S. Patent No. 6,654,793) in view of Hill et al. (U.S. Patent No. 5,511,197). Although Applicants disagree with this rejection of claims 1-33, Applicants submit a Terminal Disclaimer herewith in order to expedite prosecution of this application. In view of the attached Terminal Disclaimer, Applicants respectfully request that the double patenting rejection of claims 1-33 be withdrawn and the claims allowed.

Claims 1, 11 and 21

Claims 1, 11 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hill et al. in view of Lundin et al. In the Office Action, the Examiner asserts that, in Hill et al., the client receives a class identifier of a proxy (which the Examiner interprets as reading on receiving a stub from a server) and dynamically loads code to create an instance of the proxy (which the Examiner interprets as reading on

loading a stub into an execution environment). See *Office Action dated July 23, 2004*, p. 4, ll. 17-23. In the rejection, the Examiner interprets the term “stub” in at least two different ways: as “a class identifier” and also as “code to create an instance of the proxy.” Moreover, the Examiner also interprets proxy 303 as a “stub.” Thus, the Examiner recharacterizes the elements of Hill et al. several times in an attempt to apply the reference to the pending claims.

Applicants respectfully disagree with the Examiner’s characterizations of Hill et al. Hill et al. is directed to a method and system for passing pointers to objects between processes. See Hill et al., col. 1, lines 11-14. Hill et al. describes sending an interface pointer from a server object in a server process to a client process:

[T]he server process instantiates an object that has multiple interfaces. The server process identifies an interface to pass to the client process. The server process creates an object stub, an object interface, and a stub channel corresponding to the interface. The server process then directs the stub channel to send an identifier of the interface to the client process. When the client process receives the identifier of the interface, it instantiates an object proxy, an interface proxy, and a proxy channel. The interface proxy receives requests to invoke a function member of the interface The stub channel of the server forwards the request to the appropriate interface stub which unmarshals time parameters and invokes the corresponding method of the marshaled interface.

Hill et al., col. 5, l. 60, through col. 6, l. 9. Note that, in Hill et al., proxy 303 is distinguished from stub 302. Thus, Hill et al. teaches that one thing (i.e., a class identifier) is received and a different thing (i.e., code to create an instance of a proxy) is loaded. *Id.*

Contrary to the Examiner’s assertions, Hill et al. does not teach or disclose receiving a stub from the server; instead, a proxy is created from a dynamic link library

that resides on the client system. See col. 8, ll. 39-58, and FIG. 4C. In Hill et al., it is the client process – not the server process – that originates the object proxy in response to an interface pointer.

In an attempt to cure these deficiencies, the Examiner cites Lundin et al. The Examiner asserts that Lundin et al. “teaches a client (client) retrieving (import) from a server (trader) an interface including both an identifier (X) and the code (produced by the Create method). See col. 12, lines 1-12 [and] fig. 6.”

Applicants respectfully disagree with the Examiner’s interpretation of Lundin et al. Lundin et al. is directed to the replacement of software in an operating computer system having both old and new versions of modified software coexisting in the computer and simultaneously executable therein. See col. 1, ll. 17-20. In Lundin et al.:

[A] trader 80 contained within a kernel 82 ... enables an interfacing relationship between a pair of software units 84 and 86, containing, respectively, a client class 88 and a server class of objects 90.

....

... When an object is created within the system, its “create method” can be located through a request to the trader 80 portion of the operation system located within the kernel 82. The trader 80 contains all the interface information for all [sic] by linked procedure call accessible classes within the system, i.e., it contains information for each object about which other objects it is accessible by or to.

... The trader 80 within the kernel 82 can direct the execution of the software unit 100 toward either the old software unit 102 or the new software unit 104.

Lundin et al., col. 11, l. 39, through col. 12, l. 23; see *a/so* Figs. 5 and 6. Thus, contrary to the Examiner’s assertions, trader 80 is not a server. Instead, trader 80 is an interface between client 84 and server 86. *Id.* Further, in Lundin et al., the client does not import

both an identifier and code from the server, as alleged by the Examiner. Instead, client 84 calls server class of objects 90 through trader 80.

Even assuming, *arguendo*, that Hill et al. and Lundin et al. teach what the Examiner asserts them to teach (which Applicants dispute), it would not have been obvious to one of ordinary skill in the art to modify Hill et al. as the Examiner proposes because the proposed modification would, essentially, duplicate stub 302 within proxy 303. Thus, the proposed modification would pass objects, rather than pointers to objects as in Hill et al. Consequently, the proposed modification would change the principle of operation of Hill et al. Therefore, contrary to the Examiner's assertions, one of ordinary skill would not have been motivated to modify Hill et al. to incorporate the of Lundin et al. See *M.P.E.P.* § 2143.01 (8th Ed., Rev. 2, May 2004) ("If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the reference are not sufficient to render the claims *prima facie* obvious.").

Therefore, neither Hill et al. nor Lundin et al., nor their combination, support the Examiner's rejection of claims 1, 11 and 21. Accordingly, Applicants respectfully request that the rejection of these claims be withdrawn and the claims allowed.

Claims 31-33

Claims 31-33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Betz in view of Hill et al. and Lundin et al. These rejections, however, suffer from the same problems discussed above with respect to claims 1, 4, 11, 14, 21, and 24

because the cited references fail to teach or suggest receiving a stub from said server as recited in claims 31-33.

The Betz reference describes a number of distributed object-oriented computing systems. However, as admitted by the Examiner, the Betz reference does not teach a stub retrieval module or a stub loader module. *Office Action dated July 23, 2004*, p. 5, ll. 21-24. Furthermore, as explained above, neither Hill et al. nor Lundin et al., nor their combination, provide such a teaching or suggestion. Accordingly, the rejection of claims 31-33 is unsupported by the art relied upon by the Examiner, and Applicants respectfully request that the rejection be withdrawn and the claims allowed.

Claims 4, 14 and 24

Claims 4, 14 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hill et al. in view of Lundin et al. Claims 4, 14, and 24 depend from independent claims 1, 11 and 21, respectively. As explained, the rejection of independent claims 1, 11 and 21 is unsupported by Hill et al. and Lundin et al., whether taken alone or in combination. Therefore, the rejection of claims 4, 14 and 24 is also unsupported by Hill et al. in view of Lundin et al. for at least the same reasons cited for claims 1, 11 and 21. Accordingly, for at least these reasons, Applicants respectfully request that the rejection of claims 4, 14 and 21 under 35 U.S.C. § 103(a) be withdrawn and the claims allowed.

Claims 3, 7-10, 13, 17-20, 23 and 27-30

Claims 3, 7-10, 13, 17-20, 23 and 27-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hill et al. in view of Lundin et al. and further in view of Birrell et al. Each of claims 3, 7-10, 13, 17-20, 23 and 27-30 depends from one of independent claims 1, 11 and 21. As explained above, the rejection of independent claims 1, 11 and 21 is unsupported by Hill et al. and Lundin et al., whether taken alone or in combination. Further, Birrell et al. is not relied upon to teach, and does not teach, the above-identified deficiencies of Hill et al. in view of Lundin et al. Accordingly, the rejection of claims 3, 7-10, 13, 17-20, 23 and 27-30 is unsupported by the cited art for at least the same reasons given for claims 1, 11 and 21, and Applicants respectfully request that the rejection be withdrawn and the claims allowed.

Claims 2, 5, 6, 12, 15, 16, 22, 25 and 26

Claims 2, 5, 6, 12, 15, 16, 22, 25 and 26 under 35 U.S.C. § 103(a) are rejected as being unpatentable over Hill et al. in view of Lundin et al. and further in view of Mitchell et al. Claims 2, 5, 6, 12, 15, 16, 22, 25 and 26 depend from one of independent claims 1, 11 and 21. As explained, the rejection of independent claims 1, 11 and 21 is unsupported by Hill et al. and Lundin et al., whether viewed singly or in combination. Moreover, Birrell et al. is not relied upon to teach, and does not teach, the above-cited deficiencies of Hill et al. in view of Lundin et al. Accordingly, the rejection of claims 3, 7-10, 13, 17-20, 23 and 27-30 is unsupported by the references relied upon by the Examiner, and Applicants respectfully request that the rejection be withdrawn and the claims allowed.

Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

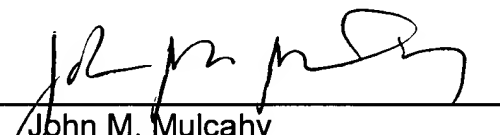
Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 14, 2004

By: _____


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Attachments: Terminal Disclaimer; copies of Information Disclosure Statements filed October 16, 2000; January 18, 2001; December 19, 2001; June 21, 2002; October 29, 2002; April 4, 2003; July 2, 2003; and September 17, 2003; and copies of return postcards showing receipt of each copied IDS by the Office.